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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,387	04/12/2004	Luciano Salice	298-238	2834
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DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			EXAMINER KYLE, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,387

Applicant(s)

SALICE, LUCIANO

Examiner

Michael J. Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-14, 16, 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-14, 16, 17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/20/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-5, 7-14, 16, 17, and 19-23 are objected to because it is unclear if the adaptor is being claimed in combination with the braking deceleration device. It is also unclear if the adaptor is being claimed in combination with the attachment plate. The preamble of independent claims 1 and 22 are directed only to "An adaptor", then describe an intended use for adaptor ("for a braking deceleration device"). However, the body of the claims continue to positively recite limitations regarding the deceleration device. If the invention is drawn only to the subcombination of the adaptor, then all limitations directed toward the deceleration must be prefaced by "adaptor to" or "for" language (or other similar terms). If the combination is to be claimed, then the preamble should be properly amended to show this. For the purpose of this examination, only the subcombination of the adaptor is considered, as provided for by the preamble in the claims. All limitations directed to the deceleration device are considered as intended use.

2. With respect to the attachment plate, the independent claims do set forth the attachment plate as part of the adaptor, but rather, and intended use of what the adaptor should be fixed to. It is unclear if the attachment plate is part of the adaptor, or merely surrounding structure that is not an aspect of the present invention. If the attachment plate is part of the adaptor, then it should be clearly and precisely presented in the claims as such.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 requires the adaptor to be mounted upon both the furniture frame and door. However, from applicant's drawings, and specification, the adaptor is mounted only to one of a frame or door. Specifically, applicant's figure 2 shows the adaptor only mounted to the frame and not the door. At most, the braking device, which is not positively claimed, comes into contact with the door. For the purpose of this examination, the adaptor will be considered as being required to be mounted to one of the door or furniture frame. Additionally, the terms "laterally spaced" and "along a rotating axis of hinge" appear to contradict each other. Along an axis is a longitudinal direction. For the purpose of this examination, an adaptor that is either spaced laterally, OR along a hinge axis will be considered to meet the limitation.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Silberman (U.S. Patent No. 1,464,448). Silberman discloses an adaptor (8) for a braking deceleration device for doors, where the device comprises a plunger (4) that is pushed into a housing (2). The

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adaptor body (8) comprises a recess (through 8) to encompass the housing (2) of the braking deceleration device, and allow the plunger to extend therefrom and retract thereinto, and a smooth external surface structured and arranged to be fixed to an attachment plate (6) to a furniture frame.

7. With respect to claim 2, Silberman discloses the adaptor to be attached to the sidewall of the furniture carcass on which the hinges are arranged.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-5, 7-13, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,684,453) in view of DE 10159140 ("DE '140"). Wang discloses an adaptor (4) comprising a body (4) having a recess capable of encompassing a housing (811) of a braking deceleration device and allowing a plunger (812) to extend therefrom and retract there into. The adaptor further includes a smooth external surface. Although the adaptor of Wang appears capable of being fixed to an attachment plate (because of that fact that it is fixed to something, it would be capable of being fixed to an attachment plate), Wang does not disclose the attachment plate.

10. DE '140 teaches an arrangement comprising an adaptor (2) having a body and a smooth external surface fixed to an attachment plate (7). Use of an attachment plate provides for

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interchangeability of the adaptor without physically altering or damaging the furniture or frame.

It also increases the ease of installation for an end user. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang as taught by DE '140, such that the adaptor (4) is fixed to an attachment plate.

11. With respect to claim 2, Wang discloses that adaptor is attached to a sidewall of the furniture carcass on which the hinges are arranged.

12. With respect to claim 3, it is noted that these limitations are drawn to an object that is not claimed in combination with the adaptor. However, if the combination were considered, then neither Wang nor DE '140 explicitly discloses a damping liquid viscosity to be at least 15,000cSt. However, one having ordinary skill in the art would recognize that such a value is desirable for sufficient braking. Additionally, the claimed viscosity does not appear to bring about any new or unexpected result over the prior art. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang and DE '140, such that the damping fluid has a viscosity of at least 15,000cSt, as such a value does not bring about a new or unexpected result.

13. With respect to claims 4, 5, 8, 9, 11, and 12, the combination of Wang and DE '140 discloses that attachment plate (of DE '140) to comprise a clip installation plate (outward facing portion of 7) with recess for accommodating corresponding projections (29) of the adaptor body. The clip installation plate also includes lateral end stops (portion maintaining the lateral position of the adaptor body), and an end hook (engaged with portions 30 and 31 of adaptor body) for engaged projections (31) in the adaptor body. DE '140 does not show the installation plate to have projections for accommodating recesses of the adaptor body. However, as noted above, DE

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'140 shows the opposite of the claimed arrangement, where the installation plate has recesses and the adaptor body has projections. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify DE '140, such that the projections and recesses are reversed, in order to attach the adaptor body to the installation plate. Reversing the elements that have the projections and recesses brings about no new or unexpected results, as the adaptor body is still attached to the installation plate by the cooperation between the projections and recesses.

14. With respect to claim 7, it is noted that these limitations are drawn to a feature that is not claimed in combination with the adaptor. However, if the combination is considered then neither Wang nor DE '140 explicitly discloses a damping liquid viscosity to be at least 20,000cSt.

However, one having ordinary skill in the art would recognize that such a value is desirable for sufficient braking. Additionally, the claimed viscosity does not appear to bring about any new or unexpected result over the prior art. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang and DE '140, such that the damping fluid has a viscosity of at least 20,000cSt, as such a value does not bring about a new or unexpected result.

15. With respect to claims 10 and 13, DE '140 discloses that attachment plate to comprise a clip installation plate (outward facing portion of 7) with recess for accommodating corresponding projections (29) of the adaptor body. The clip installation plate also includes lateral end stops (portion maintaining the lateral position of the adaptor body), and an end hook (engaged with portions 30 and 31 of adaptor body) for engaged projections (31) in the adaptor body. DE '140 does not show the installation plate to have projections for accommodating recesses of the adaptor body. However, as noted above, DE '140 shows the opposite of the claimed arrangement, where the installation plate has recesses and the adaptor body has

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projections. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify DE '140, such that the projections and recesses are reversed, in order to attach the adaptor body to the installation plate. Reversing the elements that have the projections and recesses brings about no new or unexpected results, as the adaptor body is still attached to the installation plate by the cooperation between the projections and recesses.

16. With respect to claim 21, Wang discloses the adaptor (4) to be laterally spaced from a hinge (6) and mounted upon a furniture frame, such that a plunger of a braking device is capable of moving a direction normal to the rotating axis of the hinge.

17. With respect to claim 22, Wang discloses an adaptor comprising a body (4) and having a recess capable of encompassing a housing (811) of a braking deceleration device. The adaptor has a smooth external surface. Wang does not disclose an attachment plate, or for the adaptor to be mounted to a door, rather than a furniture frame.

18. With respect to claim 23, Wang discloses the adaptor (4) to be laterally spaced from a hinge (6) and mounted upon a furniture frame, such that a plunger of a braking device is capable of moving a direction normal to the rotating axis of the hinge.

19. DE '140 teaches an arrangement comprising an adaptor (2) having a body and a smooth external surface fixed to an attachment plate (7). Use of an attachment plate provides for interchangeability of the adaptor without physically altering or damaging the furniture or frame. It also increases the ease of installation for an end user. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang as taught by DE '140, such that the adaptor (4) is fixed to an attachment plate.

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20. Further, attaching the adaptor to the door rather than the frame appears to be nothing more than a reversal of parts of an already known device. Such a modification fails to bring about any new or unexpected result, and provides the same relative damping effect. It would have been obvious to one having ordinary skill in the art at the time of the invention to mount the adaptor either on the door or the furniture frame, as no new or unexpected is produced.

21. Claims 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of DE '140 as applied to claims 10, 4, 5, 8, and 9 above, and further in view of Huber (U.S. Patent No. 5,964,010). Neither Wang nor DE '140 disclose the clip installation plate to comprise a base plate and an intermediate plate that is longitudinally slidable on the base plate.

22. Huber teaches a hinge arrangement that includes a clip installation plate (1, 2). The clip installation plate includes a base plate (1) and an intermediate plate (2). The intermediate plate (2) is slidable on the base plate in a longitudinal direction of the furniture. Huber uses this mounting arrangement so that the position of hinge may be adjusted after installation on the furniture piece. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang and DE '140, such that the clip installation plate comprises two pieces slideable relative to each other, in order to adjust the position of the hinge, and braking device after attachment to the furniture carcass.

Response to Arguments

23. Applicant's arguments with respect to the claims previously rejected by DE '140 and Brustle have been considered but are moot in view of the new ground(s) of rejection. Wang was

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cited to show an adaptor capable of “encompassing” a braking device. The new grounds of rejection were necessitated by applicant’s amendment.

24. With respect to claims 1 and 2, as rejected by Silberman, applicant argues that the device of Silberman cannot be disengaged without using tools. It is unclear how this applies this claim 1, where no features of removal or assembly are provided for. Because Silberman was not argued in light of the claimed limitations, and appears to meet every limitation of claim 1, the rejection is maintained.

Conclusion

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

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28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mk


ROBERT J. SANDY
PRIMARY EXAMINER